

AMENDED IN ASSEMBLY MAY 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 114

Introduced by Assembly Member Carter
(Coauthor: Assembly Member Nielsen)

January 13, 2009

An act to add Section 237 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 114, as amended, Carter. Juvenile court law: purpose.

Existing law sets forth the purpose of juvenile court law, and provides that a minor under the jurisdiction of the juvenile court who is in need of protective services shall receive care, treatment, and guidance consistent with his or her best interest and the best interest of the public. Existing law provides that a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with his or her best interest, that holds the minor accountable for his or her behavior, and that is appropriate for his or her circumstances.

This bill would authorize a county to adopt a restorative justice program to address the needs of minors, victims, and the community. The bill would require the restorative justice program to be implemented through a restorative justice protocol developed by the juvenile court in conjunction with the prosecutor, public defender, and other interested groups. The bill would prohibit the use of General Fund moneys to fund the program. ~~The bill would authorize each county to establish the~~

~~program only after that county has obtained funds for these purposes, as specified.~~ The bill would include related findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) It is the intent of the Legislature that principles of restorative
4 justice be incorporated into juvenile justice proceedings, consistent
5 with the underlying rehabilitative purpose of the Juvenile Court
6 Law (Chapter 2 (commencing with Section 200) of Part 1 of
7 Division 2 of the Welfare and Institutions Code). Restorative justice
8 principles recognize the following needs:

9 (1) Community protection from delinquent conduct through a
10 continuum of appropriate responses that protects citizens and
11 victims.

12 (2) Accountability of the minor through restoration of the losses
13 experienced by the victim and the community.

14 (3) Competency development of the minor through the provision
15 of treatment, education, and skill building needed for success in
16 the community.

17 (b) Crime results in injury to the victim, the community, and
18 the offender. Whenever appropriate, the juvenile justice system
19 should seek to repair those injuries, taking into account the age,
20 mental capacity, and developmental maturity of the minor, the
21 nature of the offense, and the resources available to the minor to
22 accomplish the goals of Section 237 of the Welfare and Institutions
23 Code, enacted by Section 2 of this act. Victims and communities
24 should be actively involved in helping to develop programs and
25 services, and in ensuring accountability through helping individual
26 minors to understand the impact of their actions. These activities
27 shall be pursued in a manner consistent with the minor's right to
28 due process and the right of victims and minors under Section
29 676.5 of the Welfare and Institutions Code.

30 (c) Nothing in this act changes the fundamental intention of the
31 Juvenile Court Law that individualized care, treatment, and
32 guidance be provided to each minor coming to the attention of the
33 juvenile court for alleged delinquency.

SEC. 2. Section 237 is added to the Welfare and Institutions Code, to read:

237. (a) Consistent with the rehabilitative purpose of this chapter, a county may adopt a restorative justice program to address the needs of minors, victims, and the community.

(b) The restorative justice program shall be implemented through a restorative justice protocol developed by the juvenile court in conjunction with the prosecutor, public defender, probation department, representatives from victims' groups, law enforcement, community organizations and service providers, restorative justice groups, and clinicians with expertise in adolescent development. The protocol shall address all of the following:

(1) The formation of a restorative justice council.

(2) The process to be employed in any case coming before the council.

(3) The rights of minors.

(4) *The rights of any victims involved in the case.*

~~(4)~~

(5) Confidentiality issues.

~~(5)~~

(6) Timeliness for case processing.

~~(6)~~

(7) The scope of services of, and orders that may be imposed by, the restorative justice council.

~~(7)~~

(8) The roles of the court, prosecutor, and defense counsel in relation to the council.

~~(8)~~

(9) Qualifications and the selection process for restorative justice council members.

~~(9)~~

(10) The process for evaluating compliance with the program.

~~(10)~~

(11) The process for handling any failure to adhere to the program directed by the restorative justice council.

(c) The program in each case shall seek to repair the harm to the victim, the minor, and the community caused by the behavior bringing the minor before the juvenile court. The program requirements shall be tailored to the age, mental capacity, and developmental maturity of the minor, the nature of the offense,

1 and the resources available to the minor to accomplish the goals
2 of this section.

3 (d) Minors may be referred to the restorative justice program
4 as part of the court's order for informal supervision pursuant to
5 Section 654.2, the court's order for nonwardship probation under
6 subdivision (a) of Section 725, the court's dispositional order under
7 Section 727, or the court's order for deferred entry of judgment
8 under Section 790.

9 (e) If the court orders the care, custody, and control of the minor
10 to be under the supervision of the probation officer for foster care
11 placement pursuant to subdivision (a) of Section 727, the minor
12 may be referred to the restorative justice program only as follows:

13 (1) To the extent that participation in the program is consistent
14 with both the minor's case plan developed pursuant to Section
15 706.5 and any provision of reunification services to the minor and
16 his or her family pursuant to Section 727.2.

17 (2) To the extent that participation in the program does not result
18 in the loss of federal financial participation for the placement of
19 the minor.

20 (f) No General Fund moneys shall be used to fund a restorative
21 justice program established pursuant to this section. A county that
22 establishes a restorative justice program shall apply to other
23 appropriate public and private *local, state, and federal* entities for
24 funding to cover the costs of the program. ~~A county shall establish~~
25 ~~the program only after the county has obtained funds for these~~
26 ~~purposes. Nothing in this section is intended to restrict the ability~~
27 ~~of courts or counties to develop or maintain existing programs or~~
28 ~~strategies for juvenile offenders that incorporate restorative justice~~
29 ~~principles.~~